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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1111

[STB Ex Parte No. 527 (Sub-No. 1)]

Expedited Procedures For Processing Simplified Rail Rate
Reasonableness Proceedings

AGENCY: Surface Transportation Board.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: The Surface Transportation Board (Board) issued a
decision on December 31, 1996, in Rate Guidelines -- Non-
Coal Proceedings, Ex Parte No. 347 (Sub-No. 2), adopting
simplified guidelines for determining the reasonableness of
rail rates in proceedings where the Constrained Market
Pricing guidelines cannot practicably be applied. The Board
solicits comments on how the complaint and investigation
procedures at 49 CFR Part 1111 should be modified to
incorporate a general procedural schedule to govern the
processing of proceedings using the simplified guidelines.

DATES: Comments are due March 14, 1997.

ADDRESSES: Send comments referring to STB Ex Parte No. 527
(Sub-No. 1) to: Surface Transportation Board, Office of the
Secretary, Case Control Branch, 1201 Constitution Ave.,

STB Ex Parte No. 527 (Sub-No. 1)

N.W., Washington, DC 20423.

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FOR FURTHER INFORMATION CONTACT: Thomas J. Stilling, (202) 927-7312. [TDD for the hearing impaired: (202) 927-5721.]

SUPPLEMENTARY INFORMATION: Under the ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803 (1995)(ICCTA), new 49 U.S.C. 10704(c), the Board is required to decide the reasonableness of a challenged rate within 9 months after the record closes if the determination is based on stand-alone cost evidence, and within 6 months if it is based upon a simplified methodology. By decision served on October 1, 1996 in Expedited Procedures for Processing Rail Rate Reasonableness, Exemption and Revocation Proceedings, Ex Parte No. 527, published in the Federal Register on October 8, 1996 (61 FR 52710) (October decision) the Board adopted final rules to expedite the handling of challenges to the reasonableness of railroad rates including the adoption of a procedural schedule applicable in stand-alone cost cases. The general procedural schedule requires completion of the evidentiary phase of a stand-alone cost case in 7 months and the issuance of a final decision within 16 months of the filing of the complaint. 49 CFR 1111.8. The rules became effective November 16, 1996.

In the October decision, we did not adopt a procedural schedule to govern the filing of evidence in cases using the

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simplified rate evaluation procedures. Rather, we indicated that we would consider the adoption of regulations covering such cases following completion of the Ex Parte No. 347 (Sub-No. 2).

On December 31, 1996, we adopted simplified evidentiary guidelines to determine the reasonableness of rail rates on captive traffic where the Constrained Market Pricing guidelines¹ cannot be practicably applied. Consequently, we are now soliciting comments to assist us in establishing a general procedural schedule to be used in cases processed under the simplified rate evaluation procedures of Ex Parte No. 347 (Sub-No. 2). Interested parties are asked to comment on whether a general procedural schedule applicable to cases processed under the simplified guidelines can be promulgated at this time, and if so, what that schedule should be, or whether we should delay the adoption of a general procedural schedule and proceed on a case-by-case basis until the Board and the industry have had some experience utilizing the new guidelines.

This action will not significantly affect either the quality of the human environment or the conservation of

¹

Stand-alone costing is part of the Constrained Market Pricing framework.

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energy resources.

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List of Subjects in 49 CFR Part 1111

Administrative practice and procedure, Investigations.

Decided: February 3, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams

Secretary